KANSAS AND THE LECOMPTON CONSTITUTION.

SPEECH

OF

HON. I. WASHBURN, JR., OF MAINE.

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Mr. Chairman, I have nothing to say at this time about the neutrality laws or William Walker. I shall speak to-day of Kansas and the Lecompton Constitution. On the 30th day of May, A. D. 1854, the memorable act, entitled "An act to organize the Territories of Nebraska and Kansas," was passed by the Congress of the United States. Among its provisions was the following:

"That the Constitution, and all laws of the United States which are not locally inapplicable, shall have the same force and effect within the said Territory of Kansas as elsewhere within the United States, except the eighth section of the act preparatory to the admission of Missouri into the Union, approved March 6th, 1820, which, being inconsistent with the principle of non-intervention by Congress with Slavery in the States and Territories, as recognised by the legislation of 1850, commonly called the compromise measures, is hereby declared inoperative and void; it being the true intent and meaning of this act not to legislate Slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States: *Provided*, That nothing herein contained shall be construed to revive or put in force any law or regulation which may have existed prior to the act of March 6th, 1850, either protecting, establishing, prohibiting, or abolishing Slavery."

This doctrine of non-intervention by Congress in respect to Slavery in the Territories—to its inventor, (for it was a new thing under the sun,) the present Secretary of State, if not to the country, the direful spring of unnumbered woes—was founded upon the assumption, that with the people of the Territories resided the right to manage their own affairs, to regulate their social, domestic, and local concerns in their own way. It was asserted that this right had been practically conceded to them in reference to all local and domestic questions but one—that of Slavery. And it was maintained that the intervention of Congress in respect to this single question of Slavery was invidious, unjust, and unconstitutional, and ought to be terminated by a solemn declaration and abnegation by Congress; so that, hereafter, in all sections of the country, it should be distinctly understood that the people of the Territories are to be left "to form and regulate their domestic institutions"—*all of them*—"in their own way;" that they should be as free to decide in reference to Slavery as other questions, and be governed by one and the same rule concerning all of them. To show that I have stated correctly the grounds upon which this provision of the Kansas-Nebraska act was advocated or defended by those who voted for it, I will read some brief extracts from the speeches of leading Democrats, made in Congress while this measure was pending before that body; and I may properly commence with the distinguished chairman of the Committee on Territories in the Senate, the Senator from Illinois. Judge DOUGLAS, repeating what he had said on a previous occasion, spoke as follows:

"The position that I have ever taken has been that this, (the Slavery question,) and *all other questions* relating to the domestic affairs and domestic policy of the Territories, ought to be left to the decision of the people themselves; and that we ought to be content with whatever way they would decide the question, because they have a much deeper interest in these matters than we have, and know much better what institutions suit them than we, who have never been there, can decide for them."

The Secretary of State, Gen. Cass, then a Senator from Michigan, exultingly hailed the triumph of "Squatter Sovereignty," when the Nebraska bill passed the Senate. He had previously made an elaborate speech in its favor, in which he labored to prove that the people of the Territories, as well as of the States, ought to be permitted to determine for themselves in regard to ALL their local institutions. He said:

"We know we cannot touch their domestic hearths, nor their domestic altars; their family and social relations; their wives nor their children; *their men-servants nor their maid-servants*; their houses, their farms, nor their property, without a *gross violation of the inalienable rights of man*, consecrated by the blood of our fathers, and hallowed by the affections of their sons."

The gentleman from Georgia, [Mr. STEPHENS,] it will be remembered, took an active and leading part in engineering this bill through the House of Representatives. That you may understand why he desired it might become a law, I will read a short passage from a speech which he made in this House on the 17th of February, 1854:

"And where do you, calling yourselves Democrats from the North, stand upon this great question of popular rights? Do you consider it Democratic to exercise the high prerogative of stifling the voice of the adventurous pioneer, and restricting his suffrage in a matter concerning his own interest, happiness, and government, which

he is much more capable of deciding than you are? As for myself and the friends of the Nebraska bill, we think that our fellow-citizens who go to the frontier, penetrate the wilderness, cut down the forest, till the soil, erect school-houses and churches, extend civilization, and lay the foundation of future States and Empires, do not lose, by their change of place in hope of *bettering* their condition, either their capacity for self-government, or their just rights to exercise it, conformably to the Constitution of the United States.

"We of the South are willing that they should exercise it *upon the subject of the condition of the African race among them*, AS WELL AS UPON OTHER QUESTIONS OF DOMESTIC POLICY"

Such, sir, were the arguments and considerations upon which the friends of the Nebraska bill urged its adoption by Congress. There were, to be sure, a few gentlemen in both Houses who supported the measure on different grounds; who repudiated and scouted the doctrine of popular sovereignty, as advocated by the gentlemen from whose speeches I have quoted; but they were not the active and efficient men upon whose efforts its success depended, although they may have been the parties who compelled its introduction. And I assert, without fear of contradiction from any intelligent quarter, that the avowed purpose for which the Nebraska bill, in the shape which it finally assumed, was enrolled upon the statute book of the United States, was to assure to the people of the Territories the right to make such rules and regulations, laws and ordinances, affecting their domestic interests and systems, of whatever character, as they should see fit. Were it necessary to fortify this allegation by additional testimony to the same effect with that which I have adduced, it could be found in more than fifty speeches, filling the columns of the Appendix to the Congressional Globe for the first session of the Thirty-third Congress.

Such were the reasons assigned for the enactment of this law, by its influential and efficient friends; and to those of their number who, by their subsequent action in attempting in good faith to secure to the people the untrammeled exercise of this right, prove that they were really actuated by the motives which they professed, we may yield our respect, while we must continue to lament that they should have fallen into errors so grave and so vital. The design of the section of the bill which I have read was not, as the President would imply, in giving the people of the Territories of Kansas and Nebraska the power to vote on the question of Slavery, to deprive them of the opportunity to vote on other questions of domestic interest; but, that the right which it was assumed they already possessed, and had long enjoyed, to act on these questions, should be extended to the question of Slavery. And from the premises of the Senators and Representatives upon whose labors the incorporation of this section into the Kansas-Nebraska act in the main depended, an argument in its favor, of very considerable plausibility was founded; and the only argument that had any influence in reconciling the Northern Democracy to the abrogation of the Missouri Compromise.

Thus, I think, I have shown that if the members of Congress who voted for the Nebraska bill knew what they were about, the President is very much in error in asserting that its provisions do not contemplate the same submission to the people of all questions of interest to them, that he says is required in respect to the Slavery question.

The opponents of this act denied that the people of the Territories possessed the absolute and exclusive right of legislation in regard to their domestic affairs. They did not yield their assent to the arguments to which I have referred, for they did not understand that *the people of the Territories* possessed *any* legislative powers as of unconditional right. They believed that Congress might, if it saw proper, make all the rules and regulations for the Territories of the United States, so long as they should remain Territories. So far as the question of constitutional power to legislate for these inchoate political communities was concerned, they never doubted that it was vested in the Congress of the United States; and they knew that this opinion had never been questioned, from the foundation of the Government down to 1847; that it had been expressly affirmed and acted upon by all the departments of the Government—by all Presidents, Cabinets, and Congresses—during a period of sixty years; and had many times and often, and with great earnestness, been propounded as the true doctrine, even by those who were then laboring so zealously for its overthrow; and particularly did they remember that the Supreme Court of the United States, while the great and guiding mind of Marshall presided over its deliberations, had decided specifically, in the leading case of the American and Ocean Insurance Company *vs.* Canter, (1 Pet., s. 511,) that Congress had full, plenary, and exclusive legislative power over the Territories; and let me remark that they will not overlook the fact now—and to it I beg to call the particular attention of the House—that this opinion has recently been sustained by the same tribunal, in the most emphatic manner, in the celebrated case of Dred Scott *vs.* Sandford, in which it is expressly stated that Congress has general power to legislate for the Territories. So that, if there were no constitutional inhibition in reference to the exclusion of Slavery, its legislation in the passage of the Missouri Compromise would have been rightful and valid. The Supreme Court agree with the Republicans in denying the doctrine of popular sovereignty in the Territories, as asserted by the ostensible authors and most active promoters of the Nebraska act, and in affirming the power of Congress to make laws for the government of these incipient States, in all cases and for all purposes, except in so far as it is restrained by the Constitution. That I do not err in this statement, appears from the following extract from the opinion of Chief Justice Taney, in the case of Scott *vs.* Sandford.

"It is thus clear, from the whole opinion on this point, that the Court (in Insurance Company *vs* Canter) did not mean to decide whether the power (to govern the Territories) was derived from the clause in the Constitution, or was the necessary consequence of the right to acquire. *They do decide that the power in Congress is unquestionable, and in this we entirely concur, and nothing will be found in*

this opinion to the contrary. The power stands firmly on the latter alternative put by the Court—that is, as '*the inevitable consequence of the right to acquire territory.*' "

So much for the Nicholson letter! So much for "squatter sovereignty!"

It will be seen that the court fully agree with the Republicans in repudiating, root and branch, length and breadth, the dogma of popular sovereignty, but differ from them in holding that the Constitution has forbidden the interference of Congress for the restriction of Slavery. The Republicans, maintaining the existence of this general power in Congress, insist that it extends to all proper subjects of legislation in the Territories—the question of Slavery included. And they agree with Senator Douglas and General Cass, that it has no more power over Slavery than it has over other questions of domestic policy and interest.

But, Mr. Chairman, the Republicans hold that, although the legislative power resides, and of necessity must reside, in Congress, it may be committed by the latter, in whole or in part, into the hands of the people of the Territories; or, in other words, that Congress may govern through the instrumentality of Territorial Legislatures, whose action, being subject to its approval or rejection, becomes, in effect, the action of that body. They also believe that it is wise and expedient to delegate to the people of the Territories the power to make, or rather to initiate, the laws and regulations in regard to such matters, systems, and institutions, as are purely local, and affect only themselves; but that there are subjects, not of a merely local character, which should be reserved for the exclusive legislation of Congress. Of such was the question of Slavery, or no Slavery, in Kansas, as it affected, not only the people of that Territory, but also of all the States, the interest and welfare, the peace and prosperity, of all.

It was a question in which the people of Maine and the people of Texas were interested. The people of Maine believe that their interests are affected unfavorably by any act which extends Slavery, and enlarges its power in the country and in Congress, gives to the Representatives of servile labor increased power to protect and promote the particular and special interests of those who live upon such labor, at the expense, and it may be to the destruction, of free labor—of labor that owns itself, and claims the right to protect itself as vital and sacred. And so they said to their Representatives in 1820, and have said to them ever since, while in all matters affecting the people of the Territories alone, it will be well for you to allow them to make their own laws, in those which concern not only them, but us also, reserve the power to yourselves and to us, whose agents you are, that our rights may be preserved and our interests protected. Grant not the power to the enemies of our institutions—the Mormons, for example—to go on to our own territory, purchased by our blood or treasure, or both, and there establish schemes and systems of wrong and immorality and violence, discreditable to the age, and disgraceful to the country, and which, if not checked, will undermine the institutions of Christianity and civilization, which are the butments and defences of Republican Liberty.

Upon this point, I rejoice to be able to bring to my support the opinion of one of the wisest men the Republic has ever known, and whose authority in a question of this character yields to that of no other name. I refer to James Madison, from whose writings I read thus:

"Every addition the States receive to their number of slaves, tends to weaken and render them less capable of self-defence. In case of hostilities with foreign nations, they will be the means of inviting attack, instead of repelling invasion. It is a necessary *duty of the General Government* to protect every part of their confines against dangers, *as well internal as external.* Everything, therefore, which tends to increase danger, though it be *a local affair*, yet, if it involves national expense or safety, becomes of concern to every part of the Union, and is a proper subject for the consideration of those charged with the general administration of the Government."

It required no extraordinary degree of foresight to predict what would follow the repeal of the Missouri Compromise. The slaveholding oligarchy might use popular sovereignty for a special purpose; but for them, as a principle of general application, it was not entirely safe. They had discovered that their system of servile labor was one which required continual bracing and strengthening. It is in its nature, as all things false and violent are, self-destructive. It must have scope and room for expansion, or it dies; blasting the earth wherever it treads, it must have "fresh woods and pastures new," or it starves. It must be protected from without, and its defences and supports must be placed beyond the contingencies of public opinion, and out of the reach of ordinary assault; therefore, it must be guarded by constitutional sanctions. Hence the Dred Scott opinion—interpreted by President Buchanan, in his letter to Professor Silliman and others, as containing the doctrine, as it undoubtedly does, that the Constitution of the United States affixes, in certain cases, to persons of African descent, the character of property—stamps them with the mark of chattels. If this be sound doctrine, it is plain that the Constitution carries Slavery, not only into the Territories, but into the States; for whatever *is* makes property, no State law or Constitution can declare shall not be property.

Sir, this is a monstrous doctrine; and that it is necessary to be maintained, only proves the mischievous and desperate character of the system for whose protection it is invoked. If it is the true doctrine, then was the Constitution ordained not to secure the "blessings of liberty" to the people of this country, but to fix upon them forever a system regarded, we have been taught to believe, by its framers, and all the early statesmen, as without foundation in natural right or sound policy; then must it be admitted that the great end and object of the Constitution was to establish or protect Slavery everywhere within the range of its operations. For if it recognises, and was intended to recognise, property in slaves to such an extent that it is not within the power of a State, (or Territory,) by its laws, to forbid the existence of this relation within its own jurisdiction, it does, in re-

gard to property in slaves, what it has never been understood to effect in respect to property in anything else—it makes a fundamental distinction between slave property and all other kinds of property. It has never been held that the Constitution gives to horses, oxen, carriages, or anything else, the character of property, in the sense in which it is understood by the President and by the Supreme Court to affix that character to negroes held to service. The legislative power of a State or Territory may, without doubt, declare that there shall be no property in liquors of domestic manufacture, in bank notes, in horses, in carriages without wheels or with wheels, or with wide wheels or narrow wheels, or in oxen, as I am informed the Legislature of Missouri has already done. Nobody, I presume, questions the existence of this power in the States. It is exercised by them every day. Deny it to them, and they are deprived of one of their most important functions. What power but that of the people of the several States can decide what shall be treated as property within their respective jurisdictions? Shall the Federal Government exercise this power? If so, whence is it derived? Does the Constitution declare what is property in New York or Pennsylvania? If so, what becomes of the police powers of the States? No, sir; this right to declare what may be held and recognised as property exists in the several States, each for itself, and nowhere else.

Mr. Chairman, notwithstanding these and other objections on the part of the true friends of self-government and of the Constitution, the Nebraska bill became a law, and the Missouri Compromise was abrogated and destroyed. The opponents of Slavery extension were beaten, but their responsibilities to the Territories, to the country, and to the cause of human nature, did not cease with this defeat. An opportunity to labor for the preservation of the Territories remained; and duty and consistency alike enjoined upon them the obligation of taking care, so far as they had the power, that the act for organizing the Territories of Nebraska and Kansas should be honestly executed. They could not restore the Missouri Compromise—they attempted to do it in the last Congress, and failed—but they could say to the Democratic party, you have passed this act for the avowed purpose of enabling the people of these Territories to decide for themselves in reference to Slavery, as well as other questions of interest to them—we fear that some of your number are determined that they shall not do so unless they decide in a particular way. To you, therefore, who really believed in what you called popular sovereignty, and who in good faith promoted the passage of this law for the reasons which you urged with so much earnestness and persistency, we look to take care that what you alleged were its genuine objects, shall be faithfully carried out; and as the best, and as all that we can now do, we pledge ourselves to act with you, if you will permit it, and, if not, to act without you, in honest purpose, to secure to the people of these new communities an opportunity to exclude Slavery therefrom if they shall so desire. You were pledged to protect them in the exercise of this grant, or right, if you please to call it so—pledged by your speeches, your resolutions, your presses, by the messages of your late President, and the inaugural address of your present. But, sir, in what way have these pledges been kept, and to what extent have you been permitted to keep them?

It is not necessary for my present purpose that I should recall to your notice the operations of the "Border Ruffians" in Kansas in 1854, when a Delegate was first sent to this House from that Territory, chosen by the votes of some twelve or fourteen hundred non-residents, men who had no better right to vote there than you had; in 1855, when a Legislature was imposed upon that Territory by citizens of Missouri and other slave States, who, to the number of more than four thousand eight hundred, invaded it, and claimed and exercised the privilege of voting, and by their votes elected a large majority, if not all, of the members of that body; in 1856, a year stained by the record of crimes and atrocities in that unhappy Territory, so monstrous and so strange, that history will set it apart, for its bad eminence, from all other years in the roll of many generations. But I will come down to the present year, and to what has transpired under the administration of Mr. Buchanan. And, sir, I regret to say that I am compelled to believe that this Administration has never intended that the people of Kansas should be permitted to decide for themselves in respect to the question of Slavery. At the same time that I say this, in deepest sorrow, and because I must say it if I speak the truth, I rejoice with exceeding joy in the manifestation, in influential quarters, of a fixed and unchangeable purpose to see that what were urged as the true principles of the Nebraska bill shall be respected and carried out at all hazards.

But to return to the Administration. I have said, in effect, that I do not believe that the Administration ever intended that Kansas should be a free State, let the wishes of her people be what they might. And for this belief I am prepared to give my reasons. Men and Governments are to be known by their actions, rather than by their professions. Soon after the inauguration of Mr. Buchanan, the question, "who shall hold the offices for and in Kansas?" claimed the attention of the Administration. Governor Geary, who, it was understood, was in favor of Popular Sovereignty, so called, intimated, it is said, his willingness to continue in office as Governor, if he could be allowed to employ all the proper means necessary to protect the people in the exercise of their rights. But no; this was not to be thought of; and a distinguished gentleman from Mississippi, in whom, from his residence in the South, and his known views upon the subject of Slavery, it was supposed, no doubt, that full confidence might be reposed by the Propagandists, was appointed in the place of Governor Geary. For the subordinate offices in the Territory the most extreme and notorious Pro-Slavery men were selected—in some instances, men who had been most unscrupulous and violent in their efforts to defeat the popular will;

even men who had been the leading spirits in those deeds of inhumanity and blasphemy which made the land shudder, and whose arms were red to the shoulders with the blood of their murdered victims.

It is true the Administration promised the people of Kansas that they should have an honest vote at their elections. How has this promise been fulfilled? To say nothing of the election of members of the Constitutional Convention, to which I shall have occasion to allude hereafter, let me call your attention to the election of members of the Territorial Legislature. When it had been demonstrated to the satisfaction of the Governor and Secretary of Kansas that the most palpable and stupid frauds had been perpetrated in McGee and Johnson counties, by which the majority of the Legislature would be given to the Slave-State men—frauds so patent that the President himself did not doubt their existence, and the Governor and Secretary, as fair men, could not help rejecting the votes returned through these frauds, whereby the Free-State men were placed in the minority in the Legislature—what did the President do? Approve and commend the course of Governor Walker and Secretary Stanton in performing their duty, and seeing that the right of the people to govern themselves, so far as delegated by the organic act, was not destroyed by fraud? No; but if all rumor be correct, he had for them nothing but frowns and reproaches. Now, if Governor Walker had been more faithful to the Administration, and less true to the people and his own promises, and had given certificates to the Pro-Slavery claimants in Johnson and McGee, it would not have been difficult, under the forms and pretences of an adherence to the doctrine of popular sovereignty, to have brought Kansas into the Union as a slave State. But when this election was lost, all was lost, and even the pretexts of popular sovereignty were as good as dismissed forever.

I now come to a consideration of the Lecompton Constitution and the President's message. The Constitution of the United States provides that Congress *may* admit new States into the Union. The language used implies the exercise of a discretion in Congress; it ought to be, no doubt, a wise, honest, just discretion. I do not understand from the Constitution, or from the practice of Congress, that any particular form of application is necessary. Whenever the judgments and consciences of Senators and Representatives are satisfied that the people of a Territory having a sufficient population desire to be admitted into the Union as a State, and they present themselves with a Constitution providing for a republican form of government, and which does no injustice to other States, which contains nothing immoral, indecent, or greatly wrong, it is the duty of Congress to grant the prayer of their petition. But if the Constitution presented does not provide for a republican form of government; if it contains provisions which are manifestly unjust to other States; if its provisions are indecent and immoral, although they may not be regarded as strictly inconsistent with the idea of a republican form of government; or if the members of Congress believe, and from the evidence must believe, that it is not in accordance with the wishes of a majority of the people; if they know, as well as such things can be known, that the majority of the people are opposed to it, and would vote against it if they had a chance, it is their duty to vote against the admission of a State under such circumstances. I should do it. I will not vote to drag a people into the Union against their will, if I know their will, and under a Constitution which is not theirs. I have no right to do so. In thus voting, I would abuse the power vested in me as much as I should if I were to vote against the admission of a State which should present a petition for admission accompanied by a just and republican Constitution, and should have the best reason to know that it was the wish of the great majority of the people that she should be admitted.

I shall not look to forms and technicalities, but to the substance, in such cases. I would not consider an enabling act by Congress, or an act of the Territorial Legislature, necessary in any case to authorize the people to ask for admission as a State. Should a Territory having the requisite population desire admission as a State, and a respectable number of her citizens issue a call for an election at which the judgment of the people could be taken whether they would have a State Government, and it should be made to appear to my mind that a majority of the people desired the formation of such a Government, and should these people provide for an election of delegates to a Convention to form a Constitution, and elections be held under such call, and the people vote thereat and elect delegates, and these meet in Convention and frame a proper and republican Constitution, and submit it to the people, by a clear majority of whom it should be ratified, and I should perceive that all things were done honestly and in good faith, can there be the slightest doubt that it would be both my right and duty, under such circumstances, to vote for her admission as a State? On the other hand, if a Constitution should be sent here under the authority of forty enabling acts or Territorial acts, and the evidence should be of such character as to enforce the conviction that the people had never made that Constitution, nor asked for admission under it; that it had been carried by fraud and violence over their heads, and was sent here, that a Government might be made for them which they would abhor and detest, I would have no right to vote for the admission, and no power on earth should compel me to vote for it. How poor and pitiful is all the talk about records and enabling acts, and Territorial acts, and proceedings regular in form, and legal bodies, when you know in your heart what the people want and what they do not want, and are required to act under a Constitution which clothes you with a discretion for just such cases, and calls upon you to exercise it wisely and honestly!

And now, sir, how is it with this Lecompton Constitution? Let us see whether, in the action of the Convention which formed it, and of the President subsequent to its formation, we have no evidence in confirmation of the opinion I have

had the honor to express in respect to the designs of the Federal Executive; and also let us observe how sadly the expectations of the real friends of popular sovereignty must have been disappointed in the Administration, which could not have had an existence but for their almost superhuman exertions.

Let us consider, in the first place, as to the constitution of this Lecompton Convention. The President and his friends contend that it was fairly constituted, and fairly represents the people, and the whole power residing in the people; and, therefore, that it was unnecessary to submit their work—to wit, the Constitution which they had framed—to them, for their ratification or rejection. He says the law for its constitution "was, in the main, *fair and just;* and it is to be regretted that all the *qualified electors had not registered themselves*, and voted under its provisions."

Sir, what are the facts? In answer to this question, I will produce no uncertain testimony; and, in the main, will rely upon witnesses whom the President is estopped to impeach, and whose testimony was in his possession when he made the statement which I have quoted. Let us see what Governor Walker says upon this point, in his recent letter to the President:

"That [the Lecompton] Convention had vital, not technical defect, in the very substance of its organization under the Territorial law, which could only be cured, in my judgment—as set forth in my inaugural and other addresses—by the submission of the Constitution for ratification or rejection by the people. On reference to the Territorial law under which the Convention was assembled thirty four regularly-organized counties were named as election districts for delegates to the Convention. In each and all of these counties it was required by law that a census should be taken, and the voters registered; and when this was completed, the delegates to the Convention should be a, portioned accordingly. In nineteen of these counties there was no census, and therefore there could be no such apportionment there of delegates based upon such census. And in fifteen of these counties there was no registry of voters.

"These fifteen counties, including many of the oldest organized counties in the Territory, were entirely disfranchised, and did not give, and (*by no fault of their own*) could not give, a solitary vote for delegates to the Convention." * * * "Nor could it be said these counties acquiesced; for, wherever they endeavored by a subsequent census or registry of their own to supply this defect, occasioned by the previous neglect of the Territorial officers, the delegates thus chosen were rejected by the Convention

"I repeat, that in nineteen counties out of thirty-four, there was no census. In fifteen counties out of thirty-four, there was no registry; *and not a solitary vote was given or could be given for delegates to the Convention in any one of these counties.* Surely, then, it cannot be said that such a Convention, chosen by scarcely more than one-tenth of the present voters in Kansas, represented the people of that Territory, and could rightfully impose a Constitution upon them without their consent."

The failure to vote, says Governor Walker, who knows what he says, and proves it, was "no fault of their own." Again, in fifteen counties not a "solitary vote could be given;" yet the President *regrets* that the qualified voters had not registered themselves and voted!

Upon this point, Secretary Stanton, who is no Free State man or Republican, but a Pro-Slavery Democrat, as he himself has told us, says:

"The census therein provided for was imperfectly obtained from an unwilling people in nineteen counties of the Territory; while in the remaining counties, being also nineteen in number, from various causes, no attempt was made to comply with the law. In some instances, people and officers were alike averse to the proceedings; in others, *the officers neglected or refused to act;* and in some, there was but a small population and no efficient organization, enabling the people to secure a representation in the Convention."

There was no remedy whatever for these men who had not been registered, as was proved by actual trial. The case is not left to conjecture, but stands on evidence; and here it is, in the memorial and protest of the people of Anderson county, Kansas, which I hold in my hand, and which I hope you will all read.

Mr. Chairman, thus it appears conclusively, and from authority which cannot be disputed, that the people of fifteen at least of the thirty-four counties in the Territory were not and could not be represented in the Convention. Nearly one-half of the people in the Territory were deprived of the right of being heard in the choice of delegates who were to exercise the highest powers of sovereignty. In one county in which there was no registry, the people did all they could to be represented in the Convention. They held a meeting, at which they voted and elected delegates. That these delegates were the choice of the people of the county, and were elected with as much regularity as the circumstances of the case would permit, and that the county was entitled by its population to two delegates, are facts which do not seem to have been disputed. Yet these delegates were not received. If they had been, the whole action of the Convention might have been reversed. The Constitution was adopted, if I am not misinformed, by a majority of only two votes. If the Anderson delegates, who would have represented as many of the people of Kansas as any two members of the Convention, had been allowed to vote, the Constitution would have been rejected. They were not permitted to vote; the Constitution was adopted, and is claimed to have been the sovereign act of the people. It was no such thing. The Lecompton Convention did not represent the sovereignty of the people, for it did not emanate from the people; therefore the Constitution should have been submitted to them in such manner that, if they did not want it, they could reject it.

But this has not been done. Let us place ourselves where the people of Kansas were on the 21st day of December, and we shall find that they cannot vote upon the Constitution made by that Convention at all. Nine out of every ten of them may dislike it; they may object seriously, and upon principle, to many of its provisions; they may not like the power to establish a mammoth bank; or they may wish to reserve to the Legislature the power to grant divorces, although I think it would be unwise to do so; (but it is their business, and they have a right to be heard on it;) they may object to give to Johnson county, with four hundred voters, as large a representation in the Senate as is allotted to Douglas county with two thousand; they may desire to be permitted to vote for an adopted citizen for Governor, although he may not have been naturalized for the full term of twenty years. But, under the Lecompton schedule, they have no opportunity to

vote on any of these questions, or to say that rather than have the Constitution as it is, they will have none. The Convention only permits them to say whether slaves may hereafter be taken into the State or not.

The President and his friends in the Senate, Mr. BIGLER and Mr. FITCH, admit that the question of Slavery should be submitted to the people. But even this has not been done. The people are not to say whether they will have Slavery or not, but only in what way they will have it; only in reference to the future sources of supply; *or, in other words, they are to be allowed to say whether or not they will give to the business of slave-breeding, within the State, the advantage of absolute protection against foreign competition.* Vote any way the people can, and Slavery is fixed in the State, and forever, or until the Constitution shall be overthrown by a revolution. The increase of the slaves in Kansas are protected by the "Constitution with no Slavery," and there is no provision by which, *under* the Constitution, any changes can be made, hereafter, to affect the condition of the slaves now within the Territory, and their descendants. Not only till 1864, but to the end of time, is the existence of Slavery secured by this Constitution. Though the "Constitution with no Slavery" be adopted, it will be with the condition "that the right of property in slaves, now in this Territory, shall in no manner be interfered with;" and as it respects the future, under this Constitution, it is provided that, after 1864, when the Constitution may be altered in all other respects, "no alteration shall be made to affect the rights of property in the ownership of slaves." Thus the people are to be bound, hand and foot, and a few interlopers and miscreants, assembled at Lecompton, in 1857, will control the millions of people who are to inhabit that broad and beautiful land, for ages and ages.

And this is Democracy; the Democracy of Slavery! This kind of Democracy—not that of Washington and Jefferson—is fast disappearing from our section of the country. Men in the free North cannot stand it. They are so much alarmed by its doctrines, that they will not only repudiate it for the present and future, but be anxious to prove that they never had anything to do with it their lives long. This Democracy of Slavery will hereafter be in use only as a warning or a fright, and will operate as effectually to preserve our public domain against the ravages of Slavery as the scarecrow set up last summer by one of our down-east farmers did, to protect his cornfield against the depredations of the crows. It was so hideous and terrible, that it not only kept the crows off this year, *but frightened them so badly that they brought back the corn they stole last year.*

Sir, the "Constitution with no Slavery" is held, by those who ought to know, to be the best form of a Pro-Slavery Constitution. See what is said by a correspondent of the Jackson *Mississipian*, writing from Lecompton, on the 27th of November last:

"Thus you see that whilst, by submitting the question in this form, they are bound to have a ratification of the one or the other; and that while it seems to be an election between a Free-State and Pro-Slavery Constitution, it is in fact but a question of the future introduction of Slavery that is in controversy; and yet it furnishes our friends in Congress a basis on which to rest their vindication of the admission of Kansas as a State under it into the Union; while they would not have it sent directly from the Convention.

"*It is the very best proposition for making Kansas a slave State that was submitted for the consideration of the Convention.* In addition to what I have stated, it embraces a provision continuing in force all existing laws of the Territory until repealed by the Legislature of the State to be elected under the provisions of this Constitution."

The Charleston *Mercury* entertains similar opinions, as will be seen by the following:

"We are equally satisfied with the action of the Convention. We differ, too, with the President, as to what is submitted to the vote of the people. *We do not think that the question of Slavery or no Slavery is submitted to the vote of the people. Whether the clause in the Constitution is voted out or voted in, Slavery exists and has a guarantee in the Constitution that it shall not be interfered with;* whilst, if the Slavery party in Kansas can keep or get the majority of the Legislature, they may open wide the door for the immigration of slaves. But this, also, is a small matter of difference with the President."

Mr. Chairman, not only are the people of the Territory deprived of the right of voting against the Constitution, and defeating it altogether; not only are they denied the privilege of voting for a Constitution which prohibits Slavery, but the Free State men, who are admitted to compose an overwhelming majority, have no opportunity allowed them to choose between the two Pro-Slavery forms which were submitted. Their right even to make this choice is dependent on the performance of a condition which, it must have been well known, they cannot do otherwise than reject.

Section nine of the schedule provides as follows:

"*Any* person offering to vote at the aforesaid election, upon said Constitution, shall, if challenged, take an oath to support the Constitution of the United States, *and to support this Constitution if adopted*, under the penalties of perjury under the Territorial laws."

Now, sir, under this schedule, the voter knows, when he offers his ballot, that the Constitution with Slavery may be adopted. He not only has the right to assume, but he does and must assume, that it will be. In this case, *may* is equivalent to *must*. He must be prepared to say and swear that he will support the Constitution in whichever of the two forms proposed it may be adopted. Suppose it to be accepted "with Slavery"—as in fact it has been—and one of its sections will read in these words:

"The right of property *is before and higher than any constitutional sanction, and the right of the owner of a slave to such slave and its increase is the same, and as inviolable as the right of the owner of any property whatever.*"

Thus the citizen who offers his ballot may be required, before he can deposit it, to swear that he will support and maintain, as a great fundamental truth, as one of the axioms of government, the proposition that the right to hold human beings in Slavery is *before and higher* than any constitutional sanction; or, in other words, is founded in absolute and eternal justice. All this he must swear, or he cannot vote. It is not enough that he should make oath that he is of lawful age; that he is an American citizen; that he has been a resident of the Territory the term

required by law, and is in all respects a qualified voter; but he is esteemed unfit to vote concerning the institutions under which he is to live, unless he will recognise, by an appeal to the God of truth, the baldest, bitterest lie that ever blistered human lips.

Speaking of this system, General Cass said, in his Nebraska speech:

"Slavery is, in my opinion, as I have said more than once before in the Senate, and I have no doubt unacceptably to many, a great evil, social and political."

Henry Clay declared that it could never be defended, "so long as the light of reason and the love of liberty remained among men." To the mind of Daniel Webster it was a thing "accursed." Thomas Jefferson denounced the traffic upon which it was founded as "PIRACY" and "THE OPPROBRIUM OF INFIDEL POWERS." Lord Brougham has characterized its fundamental idea as a "wild and guilty fantasy." John Wesley pronounced it "the sum of all villianies." The great master of the drama, who understood so well all the sides and relations of human life, to whose marvellous insight nothing concerning man was impenetrable, speaks of it as a "curse," and as feeding its victims with "distressful bread;" and our blessed Lord and Saviour has condemned it in all the lessons of His life, not less than in the memorable words, "All things whatsoever ye would that men should do unto you, do ye even so to them." But now, in the last half of the nineteenth century, in free democratic America, the people are not to be intrusted with the exercise of one of their dearest rights, until they declare that they will maintain, protect, and uphold this system, as founded in natural right, SO HELP THEM GOD!

And, sir, the Free State men of Kansas must have foreseen that in any possible event, whether they should attempt to vote or not, a majority of the votes were to be counted and returned for the Pro-Slavery side. They knew that the men who had counted twelve hundred votes in Oxford precinct would be ready to do it again if necessary. They saw that the army, whose protection had been refused them when they had needed it, would be employed to protect voters from abroad, if required. And the event has justified their anticipations. Thirteen hundred votes were given in Oxford, not one hundred of which can be legal—but they are to be considered legal, and no evidence will be permitted to affect their reception. President Pierce, in his special message of January 24th, 1856, told the Free State men, "it is not the duty of the President of the United States to volunteer interposition by force to preserve the purity of elections, either in a State or Territory. To do so, would be subversive of public freedom." Oh, no! the army may not be used to protect the actual residents and legal voters in 1855 and 1856, who are for free Kansas; but is to be paraded around the polls and the avenues thereto in 1857, to guard the Missourians, who have come over to the Territory on the neighborly errand of voting a Constitution for its people, which establishes Slavery as an unchangeable system among them.

Mr. Chairman, the "Constitution with Slavery" was accepted on the 21st of December, by the vote of a meager minority of the actual residents of Kansas. It is to be the organic, fundamental law of that State, unchangeable forever in respect to Slavery, as appears from a provision which I have already cited, and will here read again—it is in the section (fourteen) of the schedule which refers to the future amendment of the Constitution, and is as follows: "*But no alteration shall be made to affect the rights of property in the ownership of slaves.*" In no way but by revolution can a change be effected in the slavery provisions of this Constitution, and should a movement of this kind be resorted to by four-fifths of the people, the President stands ready with the army of the United States to crush it and those who participate in it.

That the people might have voted on the 21st of December, and prevented the adoption of this Constitution, is, as I have shown, a palpable and vital error. But, let me repeat, the Free State men, who are admitted on all hands, even by Calhoun and the Border Ruffians, to be largely in the majority, were excluded from the ballot-box by the oath which I have read; *for they could not take that oath and be Free State men.* But if no such oath had been interposed, how would the case have stood? The election was under the entire control of the architects of the Oxford and McGee frauds, and those who had procured or connived at the voting of Missourians in previous elections; and the Administration at Washington had, by its rebuke of Governor Walker and Secretary Stanton, for their rejection of false and fraudulent returns, intimated, in the most unequivocal manner, that any measures necessary to carry the points of the Propagandists would be approved, or, at least, winked at. And besides, even if the election had been committed to the supervision of just and impartial men, who would have received and counted all legal votes, and no others, there would, nevertheless, have been no opportunity for a vote against the Constitution, nor whether Slavery should or should not exist in the new State. The people were only permitted to say from what sources the future supplies of slaves should be derived.

Sir, with this plain and truthful statement, which defies contradiction, what an insult is it to the intelligence of this country, what a cruel mockery to the abused people of Kansas, for the President and his masters to declare that the dreadful responsibility of making Kansas a slave State, if such it shall be, rests with the Free State men of that Territory!

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